

# Order

Michigan Supreme Court  
Lansing, Michigan

December 28, 2005

Clifford W. Taylor,  
Chief Justice

128709

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

WOODLAND OIL COMPANY,  
Plaintiff-Appellee,

v

SC: 128709  
COA: 249246  
Grand Traverse CC: 01-021950-NZ

OTWELL MAWBY, P.C.,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the February 22, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals and REINSTATE the Grand Traverse Circuit Court's directed verdict in favor of defendant, dismissing plaintiff's innocent misrepresentation claim. Contrary to the reasoning of the Court of Appeals, plaintiff did not incur any damages in reliance on defendant's alleged misrepresentations. Further, plaintiff's costs to perform additional remediation did not inure to defendant's benefit. See *United States Fidelity and Guaranty Company v Black*, 412 Mich 99 (1981).

In all other respects, the application for leave to appeal is DENIED.



s1221

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 28, 2005

*Corbin R. Davis*

Clerk